

Message Text

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ACTION L-03

INFO OCT-01 IO-13 ISO-00 EB-07 AID-05 TRSE-00 CIAE-00
INR-07 NSAE-00 SP-02 /038 W
-----011613 210721Z /13
P R 201752Z JUL 77
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 9451
INFO USMISSION USUN

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E.O. 11652: N/A
TAGS: EINV, EGEN UN, ECOSOC
SUBJ: 63RD ECOSOC - INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS

1. CURRENT US WORKING DRAFT OF ECOSOC RESOLUTION ON ILLICIT PAY-
MENTS READS AS FOLLOWS:

BEGIN TEXT

THE ECONOMIC AND SOCIAL COUNCIL,

RECALLING GENERAL ASSEMBLY RESOLUTION 3514 (XXX)
OF 15 DECEMBER 1975, WHICH, INTER ALIA, CONDEMNED ALL
CORRUPT PRACTICES, INCLUDING BRIBERY, BY TRANSNATIONAL
AND OTHER CORPORATIONS, THEIR INTERMEDIARIES AND
OTHERS INVOLVED, IN VIOLATION OF THE LAWS AND REGULATIONS
OF THE HOST COUNTRYIES, AND CALLED UPON ALL GOVERNMENTS
TO TAKE MEASURES TO PREVENT SUCH CORRUPT PRACTICES,
TO EXCHANGE INFORMATION, TO COOPERATE WITH GOVERNMENTS
OF THE HOST COUNTRIES TO PREVENT SUCH CORRUPT PRACTICES,
AND TO PROSECUTE WITHIN THEIR NATIONAL JURISDICTIONS
THOSE WHO ENGAGE IN SUCH ACTS;

RECALLING RESOLUTION 2041 OF THE COUNCIL, WHICH
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ESTABLISHED AN AD HOC INTERGOVERNMENTAL WORKING GROUP
TO CONDUCT AN EXAMINATION OF THE PROBLEM OF CORRUPT
PRACTICES, IN PARTICULAR BRIBERY, IN INTERNATIONAL
COMMERCIAL TRANSACTIONS BY TRANSNATIONAL AND OTHER
CORPORATIONS, THEIR INTERMEDIARIES AND OTHERS INVOLVED,
TO ELABORATE IN DETAIL THE SCOPE AND CONTENTS OF AN
INTERNATIONAL AGREEMENT TO PREVENT AND ELIMINATE ILLICIT

PAYMENTS, IN WHATEVER FORM, IN CONNECTION WITH INTERNATIONAL COMMERCIAL TRANSACTIONS AS DEFINED BY THE WORKING GROUP, AND TO REPORT TO THE ECONOMIC AND SOCIAL COUNCIL AT ITS SIXTY-THIRD SESSION, INCLUDING IN ITS REPORT SUCH OTHER RELEVANT PROPOSALS AND OPTIONS AS IT MAY DECIDE TO SUBMIT, IN A FORM THAT WOULD ENABLE THE COUNCIL, IF IT SO DECIDED, TO TRANSMIT ITS CONCRETE RECOMMENDATION OR RECOMMENDATIONS TO THE GENERAL ASSEMBLY FOR FINAL ACTION;

NOTING THAT THE AD HOC INTERGOVERNMENTAL WORKING GROUP HAS EXAMINED THE PROBLEM OF CORRUPT PRACTICES, IN PARTICULAR BRIBERY, AND HAS PRESENTED A REPORT TO THE COUNCIL WHICH INCLUDED TEXTS THAT CAN BE USED AS A BASIS FOR AN INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS, ALONG WITH A RECOMMENDATION THAT THE WORKING GROUP BE REQUESTED TO DRAFT SUCH AN AGREEMENT AND THAT ECOSOC CONSIDER THE QUESTION OF CONVENING A DIPLOMATIC CONFERENCE OF PLENIPOTENTIARIES TO CONCLUDE THE AGREEMENT;

CONSIDERING THAT CORRUPT PRACTICES, IN PARTICULAR BRIBERY, IN INTERNATIONAL COMMERCIAL TRANSACTIONS UNDERMINE THE MORAL FABRIC OF POLITICAL AND ECONOMIC INSTITUTIONS, DISTORT TRADE AND HINDER DEVELOPMENT, AND ENCUMBER RELATIONS AMONG GOVERNMENTS;

RECOGNIZING THAT ILLICIT PAYMENTS TAKE MANY FORMS, INCLUDING THE OFFER, DEMAND, PAYMENT, AND RECEIPT OF BRIBES AND INVOLVE BOTH DIRECT PAYMENTS AND INDIRECT PAYMENTS THROUGH EXCESSIVE FEES AND LIMITED OFFICIAL USE

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COMMISSIONS TO INTERMEDIARIES;

BELIEVING THAT AN INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS IS A NECESSARY ELEMENT IN AN EVOLVING FRAMEWORK OF NATIONAL AND INTERNATIONAL MEASURES DEALING WITH ISSUES RELATING TO THE ACTIVITIES OF TRANSNATIONAL AND OTHER CORPORATIONS IN INTERNATIONAL COMMERCE;

1. DECIDES:

(A) TO CONVENE IN ACCORDANCE WITH ARTICLE 62, PARAGRAPH 4 OF THE CHARTER OF THE UNITED NATIONS, A PLENIPOTENTIARY CONFERENCE IN JUNE 1976 TO ADOPT AN INTERNATIONAL AGREEMENT OR AGREEMENTS ON ILLICIT PAYMENTS IN CONNECTION WITH INTERNATIONAL COMMERCIAL TRANSACTIONS BY TRANSNATIONAL AND OTHER CORPORATIONS, THEIR INTERMEDIARIES AND OTHERS INVOLVED;

(B) TO INSTRUCT THE AD HOC INTERGOVERNMENTAL WORKING GROUP TO PREPARE, FOR SUBMISSION TO THAT CONFERENCE, A DRAFT INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS IN CONNECTION WITH INTERNATIONAL COMMERCIAL TRANSACTIONS, AS DEFINED BY THE WORKING GROUP, BY TRANSNATIONAL AND OTHER CORPORATIONS, THEIR INTERMEDIARIES AND OTHERS INVOLVED, AND TO CONTINUE ITS EXAMINATION OF OTHER MEASURES TO DEAL WITH ILLICIT PAYMENTS AND OTHER CORRUPT PRACTICES;

(C) THAT THE AD HOC INTERGOVERNMENTAL WORKING GROUP SHALL
HENCEFORTH BE COMPOSED OF 36 MEMBERS OF THE UNITED NATIONS TO BE
SELECTED BY THE COUNCIL ON THE BASIS OF EQUITABLE GEOGRAPHIC
DISTRIBUTION;

(DL THAT THE AD HOC INTERGOVERNMENTAL WORKING GROUP SHALL
MEET AS NECESSARY FROM SEPTEMBER 1977 TO MAY 1978 TO COMPLETE ITS
TASK;

2. REQUESTS THE SECRETARY-GENERAL TO MAKE ALL NECESSARY
ARRANGEMENTS FOR THE CALLING OF THE PLENIPOTENTIARY CONFERENCE IN
ACCORDANCE WITH THE TERMS OF THE PRESENT RESOLUTION.

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3. REAFFIRMS GT THE FORMULATION OF A CODE OF CONDUCT
BY THE COMMISSION ON TRANSNATIONAL CORPORATIONS SHOULD BE GIVEN
THE HIGHEST PRIORITY AND THAT THE CONCLUSION OF AN INTERNATIONAL
AGREEMENT ON ILLICIT PAYMENTS SHOULD IN NO WAY INTERFERE WITH OR
DELAY THAT PRIORITY

END TEXT.

2. THIS DRAFT IS NOT BEING CIRCULATED. USDEL PLANS TO CIRCULATE
A REVISED PROPOSED RESOLUTION ONLY AFTER INITIAL SOUNDING OF
OTHER DELS ON THIS SUBJECT IS COMPLETED. VANDEN HEUVEL

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENTS, BRIBERY, TEXT, INTERGOVERNMENTAL COOPERATION, RESOLUTIONS
Control Number: n/a
Copy: SINGLE
Sent Date: 20-Jul-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977GENEVA06058
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770259-0103
Format: TEL
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770739/aaaabhoz.tel
Line Count: 147
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 8c280467-c288-dd11-92da-001cc4696bcc
Office: ACTION L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 10-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1806968
Secure: OPEN
Status: NATIVE
Subject: 63RD ECOSOC - INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS
TAGS: EINV, EGEN, UN, ECOSOC
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/8c280467-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009